IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.
Income Tax Application No.99 of 2002

The Commissioner of Income Tax. ... Petitioner
v/s.
Tata Iron and Steel Co.Ltd. ... Respondent

Mr.A.N.Kotangale for petitioner.
Mr.P.C.Tripathi with Mr.Dinesh Vyas for respondent.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 17th October 2006

P.C. :

1. Heard the learned Counsel for the parties.

2. The present Application concerning the respondent's tax liability for the assessment year 1987-88 seeks to raise the following question of law:-

> " Whether on the facts and in the circumstances of the case, the Tribunal was right in law in upholding the order of the CIT (A) that the expenditure incurred by the assessee in India in providing facilities / reimbursement of incidental expenses to the foreign technicians is not fees for technical services and no tax is deductible at source in respect of these

expenditure ? "

3. The Income Tax Appellate Tribunal declined to refer the question by its order passed on 23rd July 1996. The Tribunal took a view that it was purely a question of fact and no referable question of law had arisen. The question sought to be raised is with respect to the deductions to be effected under Section 195(1) of the Income Tax Act, to which the defence of the respondent was under sub-section (2) of Section 195. As far as this aspect is concerned, it has been concluded in favour of the respondent in a judgment rendered by the Division Bench of this Court in the case of **CIT vs. Tata** E**ngineering and Locomotive Co.Ltd. reported in 245 ITR page 823** wherein the Division has held that no substantial question of law arose with respect to the particular assessment year which was before the Court. In view of that decision, we do not think that in the present matter also any reference should be called for. Application is rejected.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)